IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.970 OF 2007
(For condondation of delay)
IN
SECOND APPEAL STAMP NO.14741 OF 2007

Rukhmini Jagannath Pable and others .. Applicants
v/s.
Ramesh Popat Pable and others .. Respondents

Mr. M.M. Sathaye for the applicants.
Mr. Hardas i/by Mr. P.N. Joshi for the respondent No.8.

CORAM : ABHAY S. OKA, J.
DATED : 29TH NOVEMBER, 2007

P.C.

Heard the learned advocate for the applicants and the learned advocate for the respondent No.8.

2. This is an application for condonation of delay of more than six years in preferring the second appeal. The applicants are original plaintiff Nos.2A to 5. The decree of the appellate court has been passed on 18th August, 2000. The case made out in the application is that the first plaintiff Pandurang being Karta of the family, looked after the suit filed by the applicants and the said Pandurang. It is pointed

out that the original plaintiff No.1 Pandurang deposed on behalf of the plaintiffs. It is stated that the first applicant is handicapped person and fourth applicant is a widow. The other applicants were minors at the relevant time. It is stated that the applicants were never aware of the pending litigation and in particular fate of the Appeal. The said Pandurang died in 2004. It is stated that only in June, 2007, the applicants became aware that one Lata Deshmukh was claiming to be the owner of the property. Thereafter enquiries were made by the applicants when they realised that the appeal was dismissed. After applying for and obtaining the certified copy of the judgment and decree, the present appeal has been filed. The application is strongly opposed by 8th respondent by filing reply.

3. The averments which are referred to above are found in paragraph Nos.7, 10 and 11 of the application. I find that in the reply, there is no serious challenge made to the aforesaid averments. Therefore, the case made out by the applicants that they were not aware of the fate of litigation as it was the first plaintiff Pandurang who was looking after the litigation, has to be accepted. Sufficient cause is made out for condonation of delay. Rule is made absolute.

ABHAY S. OKA, J.